

## **RURAL BROADBAND**

### **Cabinet – 10 April 2014**

Report of: Chief Officer, Communities & Business

Status: For Decision

Also considered by: Rural Broadband Working Group- 5 February  
Finance & Resources Advisory Committee – 26 March  
Economic & Community Development Advisory Committee – 26 February 2014

Key Decision: Yes

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#### **Executive Summary:**

This report summarises the work that has taken place to improve broadband within the District. It also explores 5 options that Members may want to consider in order to improve services in the future.

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**This report supports the Key Aim of** the Community Plan (Dynamic and Sustainable Economy)

**Portfolio Holder** Cllr. Roddy Hogarth

**Contact Officer(s)** Lesley Bowles - Chief Officer, Communities & Business Ext.7335  
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**Recommendation to Economic & Community Advisory Committee/Finance & Resources Advisory Committee:** That Members views are sought on the options for future broadband provision in the District and to make any recommendations to Cabinet.

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#### **Recommendation to Cabinet:**

Subject to any views of the Advisory Committees and Members views are sought on the options for future broadband provision in the District.

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#### **Reason for recommendation:**

To determine how the District Council should respond to the need for better broadband in the District.

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## **Introduction and Background**

- 1 In 2010 the government announced that it would be investing £530 million to stimulate commercial investment in superfast broadband infrastructure in rural areas.
- 2 Kent County Council were successful in bidding for £10 million from the BDUK funding; this has been combined with an additional £10 million from the KCC Regeneration Fund. Any private provider would be expected to match this. KCC entered a competitive procurement process and signed a contract with BT. The agreed targets with BT are as follows:
  - At least 95% of all properties in Kent will have access to higher speed fibre based broadband.
  - Every property in the County will be able to access a minimum of 2 mbps
  - A minimum of 91% of premises will get superfast broadband of at least 24 mbps
- 3 We have also been actively engaging with local communities to apply for funds from the DEFRA Rural Community Broadband Fund (RCBF). We have submitted a joint application with Tunbridge Wells Borough Council for funds to upgrade some of our 'hard to reach' rural areas with superfast broadband. This will benefit parts of Leigh, Chiddingstone, Penshurst, Cowden and Hever. Further information is given in the appendix to this report. This project will be delivered by BT as part of the BDUK rollout using the change control mechanism, thus avoiding a lengthy procurement process or difficult state aid sign off. A further pot of government funding will be released on the 17<sup>th</sup> March 2014. (See Appendix A and B for further details)
- 4 Members have expressed concerns that the BDUK and RCBF process will not provide adequately fast broadband services to our primarily rural District. Officers were tasked with looking at a number of options which the Council could undertake to improve broadband in the District, including those which may provide an income to the Council.
- 5 **OPTION 1 - Assist local communities in taking advantage of the BDUK and RCBF rollout .** We would continue to develop our relationship with BT and assist in delivery of the BDUK and RCBF projects.
- 6 **OPTION 2 - Work with small network providers to encourage them to invest in the District.** Develop our relationship with small private sector providers. Give them information about specific areas of the District that have subpar speeds. Put them in contact with local communities, parish councils and broadband working groups so that the companies can present to local communities.
- 7 **OPTION 3a - Invest with smaller companies to provide broadband services in the District.** Develop our relationship with small private sector providers, identify those areas with poor broadband connectivity and invest with these companies using Council funds. Those communities with continued poor speeds would get a significant upgrade. Like many investors, the Council is currently getting a poor return on its cash reserves. Investing in small broadband companies for the

remaining poor areas of coverage in the District could be a 'win-win' situation. The Council would receive a more beneficial return on its financial investment and rural communities would receive improved broadband speeds.

The Crockham Hill Community Interest Company (CHCIC) was started with a combination of KCC seed funding and considerable private investment. It delivers a wireless broadband solution with fibre backbone, which will eventually enable residents and businesses to gain speeds of over 100mb/s. So far, they have connected approximately 170 properties (both business and residential). They are currently seeking a further £100,000 funding to expand their network and reach further rural communities. The attractiveness of this model for many residents and businesses is that any profit is then redistributed in the local community.

- 8 **OPTION 3b- Invest in a Special Purpose Vehicle (SPV), which would then allocate funding to smaller companies to provide broadband services in the District.** Develop our relationship with small private sector providers, identify those areas with poor broadband connectivity and invest with these companies through the SPV. Those communities with continued poor speeds would get a significant upgrade. Like many investors, the Council is currently getting a poor return on its cash reserves. Investing in small broadband companies for the remaining poor areas of coverage in the District could be a 'win-win' situation. The Council would receive a more beneficial return on its financial investment and rural communities would receive improved broadband speeds. The fundamental difference between this and Option 3a is that this would bypass burdensome state aid regulations.
- 9 **OPTION 4 - Consider setting up a Community Interest Company to deliver broadband services.** It has been suggested by members that the District Council consider starting its own telecoms company.
- 10 **OPTION 5- Commission technical and demand surveys.** We already have information on which cabinets will be updated in the BDUK programme (**Appendix A**). However information on coverage and speeds has not been released. To better understand the future provision in the District we could get a technical broadband consultant to provide us with a study. In addition to this, it would be useful to have an in-depth needs survey for the whole District. This could then be used to attract investment and, in the future, purchased by those looking to invest so they know which areas are keen on what service.
- 11 Analysis of each of these options is given in this report and in the appendix.

## **Key Implications**

### Financial

**OPTION 1** - There would be no financial implications associated with this option.

**OPTION 2** - There would be no financial implications associated with this option.

**OPTION 3a** - In order to take account of State Aid rules we would only be able to invest in areas which were in 'market failure'. There is a precedent for this. Northamptonshire are currently out at procurement for the most rural areas which are not covered under the

BDUK contract. A number of areas of the District are already going to be covered by the following programmes/private companies:

- BDUK or RCBF
- Gigaclear (Underriver project)
- Crockham Hill CIC
- Callflow Solutions
- V Fast

None of the areas covered by these programmes or private providers will be in 'market failure'. This is likely to leave a small proportion of the District which would be eligible for an upgrade from public funds, making this investment less attractive for the Council.

A business case would need to be procured to assess demand and the financial implications for the Council. Privately provided rural broadband is extremely expensive. As an example, the Underriver project, being delivered by Gigaclear is costing approximately £1.1 million for 1,200 rural households.

The financial return from investing in either a private company or CIC is unknown and the payback period will be over the next 10-15 years. In the case of the Crockham Hill CIC, investment by the Council in the Crockham Hill company, whilst it would enable wider reach of the project, would not produce a financial return. However, the Council may be able to help steer how the profits, which are ploughed back into the community, could be spent. We may have to commission an independent review.

OPTION 3b- Investing in an SPV would bypass many of the state aid problems mentioned in Option 3a. However, there would still be a considerable financial outlay for the Council. The SPV would still be investing considerable amounts of public money. A business case would need to be procured to assess demand and the financial implications for the Council. Privately provided rural broadband is extremely expensive. As an example, the Underriver project, being delivered by Gigaclear is costing approximately £1.1 million for 1,200 rural households.

The financial return from investing in a private company is unknown and the payback period will be over the next 10-15 years.

**OPTION 4** - The Council would need to apply for an Electronic Communications Code licence which would cost the Council £10,000 for a successful application and then an annual fee, payable at the beginning of each financial year of £1000. There is no guarantee that this would be granted. Commercial providers are able to comment on the application and are known to oppose applications, particularly where they feel that State Aid regulations may apply.

As an estimate we would need four additional members of staff (a network administrator, two technical operators and a consultant to oversee and map the process). Investing in rural broadband is expensive. The approximate cost for the Underriver project (which covers approximately 1,200 households in West Kent) is £1.1 million.

Two very high profile DIY projects have failed, one of them in Kent. The financial consequences have been significant.

Digital Region was established in South Yorkshire in 2012 to deliver superfast broadband to over 526,000 homes in Sheffield, Barnsley, Doncaster and Rotherham. It was started with considerable European Regional Development Fund (ERDF) and local authority funding. The total funding was £95 million. With such funding the network expanded quickly. Unfortunately the project was plagued by low subscription rates and undercutting from competing private sector providers. The project closed earlier this year at a considerable loss to the taxpayer. It is still required to pay back the ERDF loan funding it received.

In another instance, Selling Parish Council received a £50,000 grant from Kent County Council to upgrade broadband services. They decided to embark upon a Fibre to the Premise (FTTP) solution. Three years later over £500,000 has been spent and only 36 properties have been connected to the service. Much like the Digital Region project, demand for the project was low, a number of communities were unconvinced and there was competition from larger private sector providers.

**OPTION 5** - We would need to go out to tender in order to commission the technical and demand study. The financial outlay is uncertain at this time.

Legal Implications and Risk Assessment Statement.

**OPTION 2**- There are no legal implications or risk associated with this option.

**OPTION 5**- There are no legal implications or risk associated with this option.

	Risk	Effect	Mitigation
Option 1	Risk to SDC reputation if the rollout is slow or misses out difficult to reach properties	Residents are unhappy that we have not been more proactive in getting better broadband to rural areas	Work with residents to understand other broadband solutions.
Option 3a and 3b	We would be investing into a very competitive, saturated market.	The company we invest in could become bankrupt or insolvent.	A large amount of due diligence would have to be done on any company in which we chose to invest.  Agreements would have to be in place with any company we invested with so that in the event of their insolvency the infrastructure (and subsequent service) would transfer to another

	<p>Rural broadband is extremely expensive. It remains to be seen if the public would be sympathetic to the Council investing such large sums of money in relatively rural, small areas of the District.</p> <p>For 3a we may contravene State Aid regulations</p>	<p>The public may be critical of the Council spending large sums of money during a time of fiscal austerity.</p>	<p>provider.</p> <p>Public opinion would have to be monitored.</p>
Option 4	<p>We would be entering an extremely competitive, saturated market. There is a precedent for the public sector entering the telecoms market; the Digital Region project has proven a disastrous use of public money.</p> <p>The company could become under-cut by private sector providers</p> <p>Public sector models of this type face a competitive disadvantage compared with their private sector counterparts. Small providers are able to respond much faster to the market as they have a smaller regulatory burden.</p> <p>There is no guarantee we would be granted the Electronic Communications Code. The application process is lengthy, expensive and all private providers who currently have the code are asked to respond to the</p>	<p>-The company we set up loses customers and wastes taxpayer money.</p> <p>People would leave our service.</p> <p>The company becomes inefficient and unable to respond to market changes or innovation.</p> <p>The likely negative and severe response from</p>	<p>Meet with Digital Region and understand the pitfalls and risks of setting up a company to deliver broadband services.</p> <p>Prices would have to be monitored and kept competitive.</p> <p>A corporate working group would need to be created to encourage innovation and 'fast track' ideas.</p> <p>Communications would have to monitor the</p>

	<p>application in a 10 week consultation. We should expect the response to our application to be vigorous and negative.</p> <p>For this model to work we would have to take on 4-5 permanent new members of staff</p> <p>Large financial outlay. Rural broadband provision is expensive</p>	<p>both the public (cost) and the private sector will have a negative impact upon the Council's reputation.</p> <p>The trading company may not be able to afford to pay them.</p> <p>The company may become insolvent and the Council may lose the taxpayer's investment.</p>	<p>public response. We would have to meet with private providers.</p> <p>Ensure that proper risks are accounted for and understood before embarking on this type of project.</p>
Option 5	<p>It may be that, having commissioned technical and demand surveys, they show that there is no demand for broadband in addition to that being rolled out under the BDUK programme.</p> <p>It may be that companies would prefer to conduct their own technical and demand studies rather than purchase those undertaken by the Council</p>	<p>The data collected would not be valuable</p>	

**Option 3a** would both require some form of legal advice in relation to State Aid. Any investment in broadband over £200,000 over a two year period requires State Aid sign off. Any upgrade we would want to make would require us to contact BT in order to understand which areas are in 'market failure' to ensure that we can get State Aid sign off for any investment. The reason for this is that they are the only ones who currently hold the detailed information on which areas of the District will be upgraded using public

money. We would need this information in order to prove that the areas we wanted to invest in fell within 'market failure'.

**Option 3b** would require some advice from legal and finance on the operation of an SPV.

**Option 4** will be technically exempt from State Aid regulations. The reason is that the Council would set up a private company which would then borrow money from the Council to deliver the service. It remains to be seen whether a private provider would put forward a legal challenge on this model.

### Equality Impacts

Consideration of impacts under the Public Sector Equality Duty:		
Question	Answer	Explanation / Evidence
a. Does the decision being made or recommended through this paper have potential to disadvantage or discriminate against different groups in the community?	No	The paper sets out options for future broadband provision.
b. Does the decision being made or recommended through this paper have the potential to promote equality of opportunity?	Yes	Improved broadband services have the ability to be able to significantly improve well-being and access to services in rural areas of the District.
c. What steps can be taken to mitigate, reduce, avoid or minimise the impacts identified above?		The paper sets out options for future broadband provision.

### Community Impact and Outcomes

Increased broadband provision throughout the District would have a beneficial impact on rural communities.

#### Resource (non financial)

**Option 1** - No additional resource would be needed.

**Option 2** - No additional resource would be needed.

**Option 3a** - Considerable officer time would be spent designing a procurement process, going through the Open Market Review (OMR) process and getting sign off for State Aid.

**Option 3b** - Considerable officer time would be spent designing a procurement process and working with the companies on delivery.

**Option 4** - Considerable officer time would be spent creating a business case, which would heavily involve the finance team. We would also have to spend time interviewing for new staff, procuring equipment, mapping the network and marketing.

**Option 5** - Some officer time will have to be spent tendering for the work. Officers will also have to spend time working with consultants. This should not be onerous.



## **Conclusions**

Members views are sought on which options should be taken forward.

## **Appendices**

*Appendix A- BDUK Cabinets to be upgraded in Q1*

*Appendix B- Superfast Broadband Availability after BDUK and RCBF Projects*

Lesley Bowles

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